IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16313 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL JASHBHAI RAMANBHAI S/O PATEL RAMANBHAI MANORBHAI

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 16313 of 2004

MR PRADEEP PATEL for Petitioner No. 1

MS. Nayna Gadhvi for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 1,2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 28/12/2004

ORAL JUDGEMENT

#. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for an

appropriate writ, direction or order directing the respondent passport authority to make necessary rectification in the date of birth mentioned in the passport as stated in the Birth Certificate issued by the competent authority under the provisions of the Birth and Death Registration Act, 1969, as 30th April, 1954 instead of 25th April, 1954 or to issue a fresh passport to the petitioner by mentioning the correct birth date of the petitioner as 30th April, 1954 as mentioned in the certificate issued by the competent authority and to make necessary rectification in the place of birth mentioned in the passport as stated in the Birth Certificate issued by the competent authority under the provisions of the Birth and Death Registration Act, 1969, as Ashi, Tal. Petlad, District Anand, Gujarat State as mentioned in the certificate issued by the competent authority.

#. The learned advocate appearing on behalf of the petitioner has submitted that through inadvertence petitioner's date of birth and place of birth are wrongly mentioned in the passport as 25th April, 1954 and Ashi-Anand instead of 30th April, 1954 and Ashi, Tal. Petlad, District Anand, Gujarat State and the respondent authority has refused to entertain his request to correct the said mistake.

#. Shri Nayna Gadhvi, learned Addl. Central Standing Counsel appearing for the respondent authority has submitted that only on the basis of the material given by the petitioner the date of birth was recorded in the passport. He has further submitted that no change in the passport is effected, but for making any correction in the passport, a new passport is normally issued by the authority with correct details if the authority is satisfied with the genuineness of the data to be corrected. He further submitted that certificate which is produced by the petitioner at Annexure `B' to the petition is not the certificate issued by the competent authority under Section 12/17 of the Birth and Death Registration Act. He submitted that on production of the certificate issued by the competent authority, necessary correction can be made.

#. Having heard the parties and looking to the facts and circumstances and also the material placed on record and on production of the certificate issued by the competent authority under Section 12 and 17 of the Birth and Death Registration Act, the respondent is directed to look into the case of the petitioner on the basis of the evidence already adduced or which may be adduced by the petitioner to correct the date of birth as mentioned above. The

respondent shall take appropriate decision in accordance with law after considering the relevant evidence adduced before him and shall pass an appropriate order as expeditiously as possible.

#. As the respondent authority will have to undertake the exercise of scrutinizing the case of the petitioner afresh because of the default committed by the petitioner in not placing correct facts at an earlier point of time, a sum of Rs.5,000/- is ordered to be paid by the petitioner to the respondent authority by way of costs. The petition is allowed. Rule is made absolute . Direct service is permitted.

(M.R.Shah,J)

(pathan)